

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 491 Session of 2013

INTRODUCED BY FOLMER, EICHELBERGER, VOGEL, WHITE, PILEGGI, ALLOWAY, HUTCHINSON AND BROWNE, FEBRUARY 13, 2013

REFERRED TO FINANCE, FEBRUARY 13, 2013

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
 2 entitled "An act empowering cities of the second class,  
 3 cities of the second class A, cities of the third class,  
 4 boroughs, towns, townships of the first class, townships of  
 5 the second class, school districts of the second class,  
 6 school districts of the third class and school districts of  
 7 the fourth class including independent school districts, to  
 8 levy, assess, collect or to provide for the levying,  
 9 assessment and collection of certain taxes subject to maximum  
 10 limitations for general revenue purposes; authorizing the  
 11 establishment of bureaus and the appointment and compensation  
 12 of officers, agencies and employes to assess and collect such  
 13 taxes; providing for joint collection of certain taxes,  
 14 prescribing certain definitions and other provisions for  
 15 taxes levied and assessed upon earned income, providing for  
 16 annual audits and for collection of delinquent taxes, and  
 17 permitting and requiring penalties to be imposed and  
 18 enforced, including penalties for disclosure of confidential  
 19 information, providing an appeal from the ordinance or  
 20 resolution levying such taxes to the court of quarter  
 21 sessions and to the Supreme Court and Superior Court,"  
 22 providing for the definitions of "farmer" and "farming"; and  
 23 further providing for declaration and payment of income taxes  
 24 and for withholding and remittance.

25 The General Assembly of the Commonwealth of Pennsylvania  
 26 hereby enacts as follows:

27 Section 1. Section 501 of the act of December 31, 1965  
 28 (P.L.1257, No.511), known as The Local Tax Enabling Act, is  
 29 amended by adding definitions to read:

1 Section 501. Definitions.

2 The following words and phrases when used in this chapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 \* \* \*

6 "Farmer." An individual whose gross income from farming for  
7 a taxable year equals at least two-thirds of his gross income  
8 from all sources for that taxable year.

9 "Farming." The term shall include the following activities,  
10 when engaged in as a regular business:

11 (1) The business of producing food products or other  
12 useful or valuable growths or crops by tilling and  
13 cultivating the soil and by breeding, raising and feeding  
14 cattle, livestock, bees, poultry or other animals that  
15 produce a food product or are themselves a food product. The  
16 term does not include:

17 (i) The breeding or raising of dogs, cats and other  
18 pets or game animals, birds, fish or other animals  
19 intended for use in sporting or recreational activities.

20 (ii) The operation of stockyards or slaughterhouses.

21 (2) The business of producing vegetables, vegetable  
22 plants, fruits and nursery stock, including the operation of  
23 commercial vegetable greenhouses and nurseries. The term does  
24 not include the business of servicing plants owned by other  
25 persons.

26 (3) The business of producing flowers, decorative or  
27 shade trees, plants and shrubs, in the field, nursery or  
28 greenhouse. The term does not include the raising of trees as  
29 timber or lumbering and logging or sawmill operations.

30 (4) The business of breeding, feeding and raising cattle

1 and other milk-producing animals and the production of feed  
2 for cattle and other milk-producing animals by the owner of  
3 the animals. The term does not include pasteurizing or  
4 homogenizing operations or the making of butter, cheese and  
5 ice cream.

6 (5) The propagation and raising of ranch-raised, fur-  
7 bearing animals.

8 (6) The propagation of game birds for commercial  
9 purposes by holders of propagation permits issued under 34  
10 Pa.C.S. (relating to game).

11 (7) The propagation of fish and other aquatic animals  
12 for commercial use as a food or food product by holders of  
13 propagation permits issued under 30 Pa.C.S. (relating to  
14 fish).

15 \* \* \*

16 Section 2. Section 502(c) of the act, added July 2, 2008  
17 (P.L.197, No.32), is amended to read:

18 Section 502. Declaration and payment of income taxes.

19 \* \* \*

20 (c) Declaration and payment.--Except as provided in  
21 subsection (a)(2), taxpayers shall declare and pay income taxes  
22 as follows:

23 (1) Every taxpayer shall, on or before April 15 of the  
24 succeeding year, make and file with the resident tax officer,  
25 a final return showing the amount of taxable income received  
26 during the period beginning January 1 of the current year and  
27 ending December 31 of the current year, the total amount of  
28 tax due on the taxable income, the amount of tax paid, the  
29 amount of tax that has been withheld under section 512 and  
30 the balance of tax due. All amounts reported shall be rounded

1 to the nearest whole dollar. At the time of filing the final  
2 return, the taxpayer shall pay the resident tax officer the  
3 balance of the tax due or shall make demand for refund or  
4 credit in the case of overpayment. Taxpayers may use the  
5 Annual Local Earned Income Tax Return form available from the  
6 department's Internet website to file the final return.

7 (2) [(i) Every taxpayer making net profits shall, by  
8 April 15 of the current year, make and file with the  
9 resident tax officer a declaration of the taxpayer's  
10 estimated net profits during the period beginning January  
11 1 and ending December 31 of the current year, and shall  
12 pay to the resident tax officer in four equal quarterly  
13 installments the tax due on the estimated net profits.

14 The first installment shall be paid at the time of filing  
15 the declaration, and the other installments shall be paid  
16 on or before June 15 of the current year, September 15 of  
17 the current year and January 15 of the succeeding year,  
18 respectively.

19 (ii) Any taxpayer who first anticipates any net  
20 profit after April 15 of the current year shall make and  
21 file the declaration required on or before June 15 of the  
22 current year, September 15 of the current year or  
23 December 31 of the current year, whichever date next  
24 follows the date on which the taxpayer first anticipates  
25 such net profit, and shall pay to the resident tax  
26 officer in equal installments the tax due on or before  
27 the quarterly payment dates that remain after the filing  
28 of the declaration.

29 (iii) Every taxpayer shall, on or before April 15 of  
30 the succeeding year, make and file with the resident tax

1 officer a final return showing the amount of net profits  
2 earned or received based on the method of accounting used  
3 by the taxpayer during the period beginning January 1 of  
4 the current year, and ending December 31 of the current  
5 year, the total amount of tax due on the net profits and  
6 the total amount of tax paid. At the time of filing the  
7 final return, the taxpayer shall pay to the resident tax  
8 officer the balance of tax due or shall make demand for  
9 refund or credit in the case of overpayment. Any taxpayer  
10 may, in lieu of paying the fourth quarterly installment  
11 of the estimated tax, elect to make and file with the  
12 resident tax officer on or before January 31 of the  
13 succeeding year, the final return.

14 (iv) The department, in consultation with the  
15 Department of Revenue, shall provide by regulation for  
16 the filing of adjusted declarations of estimated net  
17 profits and for the payments of the estimated tax in  
18 cases where a taxpayer who has filed the declaration  
19 required under this subsection anticipates additional net  
20 profits not previously declared or has overestimated  
21 anticipated net profits.]

22 (v) Every taxpayer who discontinues business prior  
23 to December 31 of the current year, shall, within 30 days  
24 after the discontinuance of business, file a final return  
25 as required under this paragraph and pay the tax due.

26 (3) [Every] (i) Except as provided under this  
27 paragraph, every taxpayer who receives any other taxable  
28 income not subject to withholding under section 512(3)  
29 which totals at least \$12,000 shall make and file with  
30 the resident tax officer a quarterly return on or before

1 April 15 of the current year, [June] July 15 of the  
2 current year, [September] October 15 of the current year,  
3 and January 15 of the succeeding year, setting forth the  
4 aggregate amount of taxable income not subject to  
5 withholding by the taxpayer during the three-month  
6 periods ending March 31 of the current year, June 30 of  
7 the current year, September 30 of the current year, and  
8 December 31 of the current year, respectively, and  
9 subject to income tax, together with such other  
10 information as the department may require. A taxpayer  
11 may, in lieu of setting forth the aggregate amount of  
12 taxable income not subject to withholding by the taxpayer  
13 during a three-month period of the current year, utilize  
14 one-fourth of the total income not subject to withholding  
15 reported on the taxpayer's annual return required under  
16 paragraph (1) for the year prior to the current year.

17 (ii) Every taxpayer filing a return shall, at the  
18 time of filing the return, pay to the resident tax  
19 officer the amount of income tax due.

20 (iii) The department shall establish criteria under  
21 which the tax officer may waive the quarterly return and  
22 payment of the income tax and permit a taxpayer to file  
23 the receipt of taxable income on the taxpayer's annual  
24 return and pay the income tax due on or before April 15  
25 of the succeeding year.

26 (iv) A farmer shall make and file with the resident  
27 tax officer a single return on or before January 15 of  
28 the succeeding year, setting forth the aggregate amount  
29 of taxable income not subject to withholding by the  
30 taxpayer during the 12-month period ending on December 31

1 of the current year. In lieu of setting forth the  
2 aggregate amount of taxable income not subject to  
3 withholding by the farmer during the 12-month period  
4 ending on December 31 of the current year, a farmer may  
5 utilize his total income not subject to withholding  
6 reported on the taxpayer's annual return required under  
7 paragraph (1) for the year prior to the current year.  
8 Every farmer filing a return shall, at the time of filing  
9 the return, pay to the resident tax officer the amount of  
10 income tax due. In lieu of filing the fourth quarterly  
11 return required under this paragraph, a farmer may file  
12 his final return with the resident tax officer on or  
13 before March 1 of the succeeding year.

14 (v) In lieu of filing the fourth quarterly return  
15 required under this paragraph, a taxpayer may file his  
16 final return with the resident tax officer on or before  
17 January 31 of the succeeding year.

18 (4) If any filing date under this subsection falls on a  
19 Saturday, Sunday or legal holiday, the taxpayer may file on  
20 the next business day.

21 (5) A taxpayer may use the Quarterly Estimated Earned  
22 Income Tax Return form available from the department's  
23 Internet website to fulfill the quarterly return requirement  
24 under paragraph (3).

25 Section 3. Section 512(2), (4), (5) and (7)(i) of the act,  
26 added July 2, 2008 (P.L.197, No.32), are amended and the section  
27 is amended by adding paragraphs to read:

28 Section 512. Withholding and remittance.

29 For taxable years commencing on and after January 1, 2012, or  
30 earlier taxable years if specified by a tax collection district,

1 income taxes shall be withheld, remitted and reported as  
2 follows:

3 \* \* \*

4 (2) An employer shall require each new employee to  
5 complete a certificate of residency form, which shall be an  
6 addendum to the Federal Employee's Withholding Allowance  
7 Certificate (Form W-4). An employer shall also require any  
8 employee who changes their address or domicile to complete a  
9 certificate of residency form. Upon request, certificate of  
10 residency forms shall be provided by the department. The  
11 certificate of residency form shall provide information to  
12 help identify the political subdivisions where an employee  
13 lives and works. A certificate of residency form available  
14 from the department's Internet website shall meet the  
15 requirements of this paragraph.

16 \* \* \*

17 (4) Except as set forth in paragraph (5), [within 30  
18 days] by the last day of the month following the end of each  
19 calendar quarter, every employer shall file a quarterly  
20 return and pay the amount of income taxes deducted during the  
21 preceding calendar quarter to the tax officer for the place  
22 of employment of each employee. The form shall show the name,  
23 address and Social Security number of each employee, the  
24 compensation of the employee during the preceding three-month  
25 period, the income tax deducted from the employee, the  
26 political subdivisions imposing the income tax upon the  
27 employee, the total compensation of all employees during the  
28 preceding calendar quarter, the total income tax deducted  
29 from the employees and paid with the return and any other  
30 information prescribed by the department. Employers may use



1 the Quarterly Earned Income Tax Return form available from  
2 the department's Internet website to fulfill the quarterly  
3 return requirement.

4 (5) Notwithstanding paragraph (4), the provisions of  
5 this paragraph shall apply if an employer has more than one  
6 place of employment in more than one tax collection district.

7 [Within 30 days following] By the last day of each month  
8 following the end of each calendar month, the employer may  
9 file the return required by paragraph (4) and pay the total  
10 amount of income taxes deducted from employees in all work  
11 locations during the preceding month to the tax officer for  
12 either the tax collection district in which the employer's  
13 payroll operations are located or as determined by the  
14 department. The return and income taxes deducted shall be  
15 filed and paid electronically. The employer must file a  
16 notice of intention to file combined returns and make  
17 combined payments with the tax officer for each place of  
18 employment at least one month before filing its first  
19 combined return or making its first combined payment. This  
20 paragraph shall not be construed to change the location of an  
21 employee's place of employment for purposes of nonresident  
22 tax liability.

23 \* \* \*

24 (7) On or before February 28 of the succeeding year,  
25 every employer shall file with the tax officer where income  
26 taxes have been deducted and remitted pursuant to paragraph  
27 (3):

28 (i) An annual return showing, for the period  
29 beginning January 1 of the current year and ending  
30 December 31 of the current year, the total amount of

1 compensation paid, the total amount of income tax  
2 deducted, the total amount of income tax paid to the tax  
3 officer and any other information prescribed by the  
4 department. An employer may use the Annual Reconciliation  
5 of Earned Income Tax Withheld from Wages form available  
6 from the department's Internet website to fulfill the  
7 annual return requirement.

8 \* \* \*

9 (10) (i) Except as provided under subparagraph (ii), an  
10 employer may file a quarterly return under paragraph (4)  
11 or an individual withholding statement under paragraph  
12 (7) electronically in a manner prescribed by the tax  
13 officer.

14 (ii) For employers with less than 250 employees, a  
15 tax officer may not require the electronic filing of any  
16 of the documents under subparagraph (i) unless all tax  
17 officers in this Commonwealth utilize the same electronic  
18 data format and web interface for electronic data  
19 submissions.

20 (11) If any filing date under this section falls on a  
21 Saturday, Sunday or legal holiday, the employer may file on  
22 the next business day.

23 Section 4. The amendment or addition of sections 501, 502(c)  
24 and 512(2), (4), (5), (7)(i), (10) and (11) of the act shall  
25 apply to taxable years beginning after the effective date of  
26 this section.

27 Section 5. This act shall take effect in 180 days.